



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Ellena Herbert,  
Administrative Analyst 3 (PS6733H),  
Department of Health

Examination Appeal

CSC Docket No. 2019-508

**ISSUED: MARCH 6, 2019** (ABR)

Ellena Herbert appeals the determination of the Division of Agency Services (Agency Services), which found that she did not meet the experience requirement for the promotional examination for Administrative Analyst 3 (PS6733H), Department of Health.

The examination was open to applicants who, as of the January 22, 2018 closing date, possessed a Bachelor's degree and three years of experience involving the review, analysis, and evaluation of budget, organization, administrative practices, operational methods, management operations, or data processing applications, or any combination thereof, including responsibility for the recommendation, planning, and/or implementation of improvements in a business or government agency. Applicants could substitute possession of a Master's degree in Public Administration, Business Administration, Economics, Finance or Accounting for one year of applicable experience. The subject examination was cancelled on September 1, 2018, as the appellant was the only applicant and she was deemed ineligible.

On her application, the appellant indicated that she possessed a Bachelor's degree in Sociology and a Master's degree in Criminal Justice. Because her Master's degree was not in an area of study specified in the substitution clause, she needed to possess three years of applicable experience. With regard to her experience, she indicated that she served as an Investigator 2 from January 2011 to the closing date (January 2018) and as an Investigator 3 from April 2007 to December 2011 with the appointing authority; and as a Loss Prevention Fraud

Analyst from August 2004 to August 2007 and as a Fraud Representative from August 2003 to August 2004 with Commerce Bank. Agency Services did not credit the appellant with any applicable experience, as there was no indication that the required duties were the primary focus of her responsibilities in any listed position. Consequently, Agency Services determined she was ineligible for the subject examination.

On appeal, the appellant submits that she has been serving provisionally in the subject title since May 2017 and she argues, in relevant part, that she possess 10 years of applicable experience for the subject examination. She also details her duties in each position she has held. She states that as a provisional Administrative Analyst 3, her duties include, in relevant part, “assisting in implementing and executing all administrative procedures of the ambulatory assessment programs,” reviewing and analyzing financial submissions and related documents from ambulatory care facilities, identifying facilities to be audited by an outside contractor, reviewing and analyzing the outside contractor’s audit findings and “implementing/following up on potential enforcement actions.” She submits that as an Investigator 2 she analyzed cases involving alleged fraud, negligence, misrepresentation, misconduct or institutional abuse by licensed/certified professionals; reviewed records and files to identify potential violations of the New Jersey Licensing Producer Act and ensure there was no duplication with other investigations; analyzed operating reports to identify work backlogs; recommended procedures to alleviate backlogs and informed licensed producers and agencies about policy changes.

Agency records indicate that the appellant continues to serve provisionally in the subject title.

## CONCLUSION

*N.J.A.C.* 4A:4-2.6(a)2 provides that applicants must meet all requirements specified in a promotional examination announcement by the closing date.

Agency Services correctly deemed the appellant ineligible for the subject examination. The appellant indicates on appeal that she has been serving provisionally as an Administrative Analyst 3 since May 2017. However, this information is considered an amendment to her application for the subject examination as it was not indicated on her application. Pursuant to *N.J.A.C.* 4A:4-2.1(f), an amendment to an application cannot be accepted after the closing date. Therefore, the appellant’s provisional experience in the subject title will not be credited for the subject examination. Regardless, even if her nine months of provisional experience between May 2017 and the closing date were accepted, there is no indication that she possesses the required additional two years and three months of applicable experience for the subject examination. Specifically, in order

for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). The announcement for the subject examination required three years of experience in review, analysis, and evaluation in one or more specified areas *and responsibility for the recommendation, planning, and/or implementation of improvements in a business or government agency*. Here, it does not appear that the primary focus of the appellant's responsibilities in her prior titles included recommending, planning, and/or implementing improvements. Moreover, an independent review of all material presented indicates that the decision of Agency Services that the appellant did not meet the announced requirements for eligibility by the closing date is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support her burden of proof in this matter.

Finally, a review of the duties the appellant describes in her application and on appeal suggests that her current position may be misclassified. On her application and the resume she submitted therewith, she did not state that she was serving provisionally in the subject title. Instead, she indicated that she was serving as an Investigator 2 with primary duties that included investigating licensed/certified professionals' alleged noncompliance with State statutes and regulations, and leading other investigative staff. On appeal, while the appellant does state that she was serving provisionally as an Administrative Analyst 3 as of the closing date and she indicates that she performed some relevant duties, it does not appear that the primary focus of her responsibilities in her provisional title was recommending, planning, and/or implementing improvements within the Department of Health. Rather, the bulk of the duties she describes involve auditing ambulatory care facilities and related enforcement actions under the ambulatory assessment program. Since it appears that the appellant may not be currently performing the work of an Administrative Analyst, it is appropriate to refer the matter of the classification of her provisional position to Agency Services for review, and the appointing authority shall affect the proper classification of the position within 30 days of Agency Services' classification determination. If it is determined that the appellant's provisional position should be reclassified and the appellant is found to be ineligible for the new provisional appointment, she should be returned to her regular prior-held title at that time.

### **ORDER**

Therefore, it is ordered that this appeal be denied and that the classification of the appellant's provisional position be referred to the Division of Agency Services for further review.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 6<sup>TH</sup> DAY OF MARCH, 2019

*Deirdre' L. Webster Cobb*

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